

REMARKS/ARGUMENTS

The Examiner has delineated Groups I-IV, as recited on page 2 of the outstanding Office Action, as being patentably distinct.

Applicants provisionally elect Group I, Claims 1-12, 14 in view of the following arguments why all of the claims should be examined together.

There is a technical relationship that involves the same special feature, and it is this technical feature that defines the contribution which each of the Groups, taken as a whole makes over the prior art.

The Office has failed to consider that there is indeed a common significant element that is shared by all of the claims, that is the process for the production of L-lysine, the bacterium that produces the unique L- lysine and method of use.

The Examiner's assertion that the claim of Groups II-IV constitute separate inventions is not well taken because the claims of Groups II- IV are all essentially dependent on independent Claim 1.

Restriction is only proper if the claims of the restricted group are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusions with regard to patentable distinctness MPEP 803.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness. Rather the Office has merely stated conclusions. Accordingly, the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement.

Further MPEP 803 states as follows:

"If a search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits, even if it includes claims to distinct and independent inventions"

Applicants submit that a search of all claims would not constitute a serious burden on the Office. The Office has failed to provide any reasons or example to support a conclusion that the groups are patentally distinct.

Finally, Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and an early notice of such action is earnestly solicited.

Respectfully submitted,

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